



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Science Applications International Corporation

File: B-265607.2

Date: September 20, 1995

Kathleen C. Little, Esq., and David R. Johnson, Esq., McDermott, Will & Emery, for the protester.

Paul Shnitzer, Esq., Crowell & Moring, for Vitro Corporation, an interested party.

Melissa K. Erny, Esq., Department of the Navy, for the agency.

Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

The General Accounting Office will dismiss a protest where the allegation is without factual support and the contracting agency has submitted the contracting officer's statement completely refuting the protester's allegation that the agency did not use any of the customary methods for evaluating the realism of the awardee's proposed labor rates. Furthermore, the protester's later-raised assertion that two of the several cost realism analysis methods used by the agency were too limited in scope or otherwise deficient provides no basis for finding the agency's analysis inadequate because the agency was authorized to, and asserts that it did in fact, use several other methods to analyze cost realism.

DECISION

Science Applications International Corporation (SAIC) protests the Navy's award of a contract to Vitro Corporation pursuant to request for proposals (RFP) No. N00163-93-R-0086. SAIC alleges that the Navy did not conduct a proper cost realism analysis of Vitro's proposal.¹ We dismiss the protest.

¹In its initial protest letter, SAIC also alleged that: (1) the Navy did not evaluate Vitro's proposal regarding the reasonableness of and the risk posed by Vitro's use of uncompensated overtime; (2) the Navy's evaluations of both SAIC's and Vitro's technical and management proposals was arbitrary, unreasonable, and inconsistent with the RFP's stated evaluation scheme; and (3) the Navy did not conduct a cost/technical tradeoff analysis. We dismissed these protest grounds because the protest letter did not include sufficient factual information or any evidence

(continued...)

Issued in October 1993, the RFP solicited proposals for engineering and engineering support services at the Naval Air Warfare Center, Aircraft Division, in Indianapolis, Indiana. The RFP contemplated award of a cost-plus-fixed-fee, indefinite deliver/indefinite quantity contract. The RFP stated that proposals would be evaluated on technical, management, and cost factors, and that proposed costs would be evaluated for realism. On July 28, 1995, after evaluation of initial proposals, discussions with competitive range offerors, and evaluation of best and final offers, the Navy notified SAIC that the contract had been awarded to Vitro. SAIC had been performing substantially the same services as the incumbent contractor for the past 6 years.

SAIC requested and was given a debriefing, but, according to the protester, the Navy gave only a sketchy description of its cost realism analysis of Vitro's proposal. According to the protester, the Navy stated, among other things, that cost was the deciding factor for award and that Vitro's costs had been adjusted upward as a result of the Navy's cost realism assessment while SAIC's costs were not. Based upon information allegedly provided at the debriefing conference, SAIC protests that the Navy did not use any of the accepted methods for evaluating the realism of Vitro's proposed labor rates. According to SAIC, the Navy told SAIC's representative that it had not obtained a Defense Contract Audit Agency (DCAA) audit of proposals, did not compare Vitro's proposed labor rates to prior labor rates on this contract or in other procurements, and did not use salary survey data from other sources to independently evaluate Vitro's proposed rates. Thus, SAIC asserts that the Navy advanced no rational basis for concluding that Vitro's personnel compensation rates were realistic. Since the RFP specifically stated that unrealistic personnel compensation rates would be considered and might also reduce an offer's technical score, SAIC argues that the Navy's realism analysis was not consistent with the RFP.²

¹(...continued)

establishing the likelihood that the Navy violated procurement laws or regulations. See Science Applications Int'l Corp., B-265607, Sept. 1, 1995, 95-2 CPD ¶ ____.

²SAIC also alleges that it "believes" the Navy's evaluation of the cost impact of Vitro's proposed innovations was inadequate but provides no detailed statement explaining why this is so. A protester must provide more than a bare allegation; the allegation must be supported by some explanation that establishes the likelihood that the protester will prevail in its claim of improper agency action. The protester's mere allegation, without any explanation of how the evaluation was improper, is insufficient to form a basis of protest and satisfy our filing requirements. See TRW Inc., B-258347, Jan. 11, 1995, 95-1 CPD ¶ 15; Federal Computer Int'l Corp.-Recon., B-257618; B-257618.2, July 14, 1994, 94-2 CPD ¶ 24.

The Navy requested that our Office dismiss the protest without requiring it to submit a complete report and supporting documentation because the protest does not include sufficient factual information or evidence which establishes the likelihood that the Navy violated procurement laws or regulations. Included with the Navy's request is the contracting officer's sworn statement that the cost evaluation team³ used several different price and cost analysis methods to assess the realism of Vitro's proposed costs, including, among others:

- (1) examination of Vitro's labor rates for compliance with applicable Service Contract Act rates and examination of the reasonableness of Vitro's methodologies for determining labor rates for exempt positions;
- (2) comparison of Vitro's proposed labor rates with other offerors' rates for the same labor categories;
- (3) comparison of Vitro's proposed rates for engineers with the Indiana Occupational Wage Survey; and
- (4) review of Vitro's total compensation package to determine if it was conducive to attracting and retaining quality employees.

The contracting officer also states that, upon completion of the technical and management evaluations, the agency requested and received a DCAA audit of Vitro's proposal to determine if Vitro's proposed indirect rates were reasonable and whether Vitro's accounting system was in accord with cost accounting standards appropriate for a cost reimbursement contract.

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, 4 C.F.R. § 21.1(c)(4) (1995), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge-Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

Here, the allegations in SAIC's initial protest are without any factual support. The contracting officer completely refutes SAIC's assertion that the evaluators used none of the accepted methods to evaluate cost realism. In fact, the contracting officer specifically states that the evaluation consisted of each of the methods that

³The contracting officer was also the leader of the cost realism team.

SAIC asserts were not used as well as some others.⁴ Because SAIC has provided no evidence nor any detailed factual statement to support the allegation that the cost realism analysis was unreasonable or inconsistent with the RFP, and because SAIC's assertion that agency representatives told it that none of the customary methods of evaluating cost realism were used has been completely contradicted by the contracting officer, SAIC's protest is legally insufficient.

Additionally, in its response to the Navy's request that our Office dismiss the cost realism analysis protest, SAIC notes that the contracting officer states that the cost evaluation team analyzed Vitro's proposed labor rates, escalation rates, indirect rates and fee for realism, but SAIC states generally that there is no indication to what extent the cost analyses techniques were used⁵ and alleges two specific inadequacies in the cost realism assessment. The first alleged flaw is that the Navy obtained limited DCAA audit information on Vitro's indirect rates and accounting system but not on Vitro's labor rates. The second is that the Navy did not "cross-check" Vitro's cost and technical proposals to determine whether Vitro's costs fairly represent the costs it will incur in performing the work..

These later-raised allegations are also dismissed because they provide no basis for finding the agency's evaluation inadequate. Contracting officers are responsible for selecting and using the appropriate methods of analyzing price and cost proposals; they may properly use any one of a number of techniques. See Federal Acquisition Regulation §§ 15.805-2 and 15.805-3. While SAIC believes that the DCAA audit was too limited in scope, we see no reason for finding the evaluation unreasonable in view of the Navy's using several other suitable methods of analyzing Vitro's proposed costs. Moreover, it appears that the evaluators did, in fact, "cross-check" Vitro's cost and technical proposals since the contracting officer states: "The cost elements of each proposal were examined to determine if the contractor would realistically incur that cost element." The contracting officer also states:

⁴It is of no legal consequence whether SAIC received incorrect information during the debriefing or simply misunderstood the agency representatives since any miscommunication in the debriefing is a procedural matter which has no effect on the evaluation of proposals or the validity of the award. CACI Field Servs., Inc., B-234945, Aug. 2, 1989, 89-2 CPD ¶ 97.

⁵SAIC also states generally that there is no indication whether the Navy applied its cost analyses techniques uniformly to all offers. However, SAIC has provided no facts or specific arguments to support this assertion, and, therefore, SAIC's speculative statement is insufficient to constitute a proper challenge to the agency's evaluation. See Government Technology Servs., Inc. et al., B-258082.2 et al., Sept. 2, 1994, 94-2 CPD ¶ 93.

"The cost evaluation team reviewed the offerors' methodologies for reasonableness." In sum, the agency was authorized to and asserts that it did use several different methods to analyze cost realism, and SAIC has simply provided no specific factual basis to find the agency's evaluation unreasonable.

Michael R. Golden
Assistant General Counsel